

AMENDED IN SENATE JUNE 26, 2003
AMENDED IN ASSEMBLY MARCH 20, 2003
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 290

**Introduced by Assembly Member Firebaugh
(Principal coauthors: Assembly Members Diaz, Kehoe, and
Negrete McLeod)**

February 5, 2003

An act to amend Sections ~~35031, 44951, 45117, 72411, 45117~~ and 88017 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 290, as amended, Firebaugh. Classified employees: notice of layoff.

(1) ~~Existing law provides that, if the governing board of a school district determines the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service is not to be reelected or reemployed upon the expiration of his or her term, he or she shall be given written notice by the governing board at least 45 days in advance of the expiration of his or her term.~~

~~This bill would, instead, require that the employee be given at least 60 days' written notice and that the employee be subject to the same layoff provisions for lack of funds and lack of work as classified employees, thereby imposing a state-mandated local program.~~

(2) ~~Under existing law, unless a certificated employee holding a position requiring an administrative or supervisory credential is sent~~

~~written notice by March 15 that he or she may be released from his or her position for the following school year, he or she must be continued in the position. Existing law provides that this provision does not apply to a certificated employee who holds a written contract with an expiration date beyond the current school year, or holding a position that is funded for less than a school year.~~

~~This bill would, instead, require that a certificated employee holding a position requiring an administrative or supervisory credential be given not less than 60 days' notice prior to the effective date of a layoff, and be subject to the same layoff provisions for lack of funds and lack of work as classified employees, thereby imposing a state-mandated local program. The bill would delete the application of this provision to a certificated employee who holds a written contract with an expiration date beyond the current school year, or holding a position that is funded for less than a school year.~~

(3) Under existing law, classified employees of school districts and community college districts subject to layoff as a result of the expiration of a specially funded program at the end of any school year are required to be given written notice on or before May 29 informing them of certain rights. Existing law requires that notice be given not less than 30 days prior to the effective layoff date, if the termination date of any specially funded program is other than June 30 or if classified employees are subject to layoff as a result of a bona fide reduction or elimination of a service performed by any department. Existing law also authorizes a layoff of classified employees for lack of funds, in the event of an actual and existing financial inability to pay salaries, or an unforeseeable lack of work without these notice requirements.

This bill would, instead, require that the employees to be laid off as the result of that notice be given written notice on or before April 29, or not less than 60 days prior to the effective layoff date, if the termination date of any specially funded program is other than June 30 or if classified employees are subject to layoff as a result of a bona fide reduction or elimination of a service performed by any department. The bill would delete the provision authorizing layoffs without any notice. The bill would prohibit a classified employee's position from being terminated while a short-term employee is retained to render a service that the classified employee is qualified to render, *except with respect to the retention of a short-term employee, as defined, who is hired for a period not exceeding 60 days.* ~~The~~



The additional notice requirements for school districts and community college districts required by this bill would impose a state-mandated local program. The bill would declare that this provision may not be construed to preclude a school or community college district governing board from implementing layoffs in the event of an actual and existing financial inability to pay the salaries of classified employees, or if there is a lack of work resulting from causes not foreseeable or preventable by the governing board, without providing the notice required by the bill.

~~(4) Existing law requires that an administrator employed by the governing board of a community college district by appointment or contract, the term of which is longer than one year, be given at least 6 months notice in advance of the expiration of the appointment or contract, unless the contract or appointment provides otherwise, if the administrator will not be reemployed. Under existing law, for every other administrator, notice that the administrator may not be reemployed by appointment or contract in his or her administrative position for the following college year is required to be given on or before March 15.~~

~~This bill would, instead, require that the administrator be given 60 days' notice prior to the expiration of the appointment or contract for contracts longer than one year and 60 days' notice prior to the effective date of the layoff for other administrators. The bill would require that administrators be subject to the same layoff provisions for lack of funds and lack of work as classified employees. The additional notice requirement for the governing board of community college districts required by this bill would impose a state-mandated local program.~~

~~(5)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 35031 of the Education Code is~~
2 ~~amended to read:~~

3 ~~35031. (a) Any district superintendent of schools, or deputy,~~
4 ~~associate, or assistant superintendent of schools, may be elected~~
5 ~~for a term of no more than four years. The governing board of any~~
6 ~~school district, with the consent of the employee concerned, may~~
7 ~~at any time terminate, effective on the next succeeding first day of~~
8 ~~July, the term of employment of, and any contract of employment~~
9 ~~with, the superintendent of schools, or any associate, deputy, or~~
10 ~~assistant superintendent of schools of the district, and reelect or~~
11 ~~reemploy the employee, on those terms and conditions as may be~~
12 ~~mutually agreed upon by the board and the employee, for a new~~
13 ~~term to commence on the effective date of the termination of the~~
14 ~~existing term of employment.~~

15 ~~(b) In the event the governing board of a school district~~
16 ~~determines the superintendent of schools of the district, or deputy,~~
17 ~~associate, or assistant superintendent of schools, or employee in~~
18 ~~the senior management of the classified service is not to be~~
19 ~~reelected or reemployed as such upon the expiration of his or her~~
20 ~~term, he or she shall be given written notice thereof by the~~
21 ~~governing board at least 60 days in advance of the expiration of his~~
22 ~~or her term.~~

23 ~~(c) The superintendent of schools of the district, or deputy,~~
24 ~~associate, or assistant superintendent of schools, or employee in~~
25 ~~the senior management of the classified service shall be subject to~~
26 ~~layoff for lack of funds and lack of work, as provided in Section~~
27 ~~45117.~~

28 ~~(d) The notice requirements of Section 44951 shall not apply~~
29 ~~to persons to whom this section applies.~~

30 ~~SEC. 2. Section 44951 of the Education Code is amended to~~
31 ~~read:~~

32 ~~44951. A certificated employee holding a position requiring~~
33 ~~an administrative or supervisory credential shall be given not less~~
34 ~~than 60 days' notice prior to the effective date of a layoff, and shall~~
35 ~~be subject to layoff for lack of funds and lack of work, as provided~~

1 ~~in Section 45117. Written notice shall be sent in the United States~~
2 ~~registered mail with postage prepaid and addressed to his or her~~
3 ~~last known address, unless the signature of the employee is~~
4 ~~obtained.~~

5 ~~SEC. 3.—~~

6 *SECTION 1.* Section 45117 of the Education Code is
7 amended to read:

8 45117. (a) When, as a result of the expiration of a specially
9 funded program, classified positions must be eliminated at the end
10 of any school year, and classified employees will be subject to
11 layoff for lack of funds, the employees to be laid off at the end of
12 the school year shall be given written notice on or before April 29
13 informing them of their layoff effective at the end of the school
14 year and of their displacement rights, if any, and reemployment
15 rights. However, if the termination date of any specially funded
16 program is other than June 30, the notice shall be given not less
17 than 60 days prior to the effective date of their layoff.

18 (b) When, as a result of a bona fide reduction or elimination of
19 the service being performed by any department, classified
20 employees shall be subject to layoff for lack of work, affected
21 employees shall be given notice of layoff not less than 60 days
22 prior to the effective date of layoff, and informed of their
23 displacement rights, if any, and reemployment rights.

24 (c) A classified employee's position may not be terminated
25 while a short-term employee is retained to render a service that the
26 classified employee is qualified to render. *Nothing in this*
27 *subdivision shall be construed to create a 60-day layoff notice*
28 *requirement for any individual hired as a short-term employee, as*
29 *defined in Section 45103, for a period not exceeding 60 days.*

30 (d) *This section may not be construed to preclude a school*
31 *district governing board from implementing either of the following*
32 *without providing the notice required by subdivision (a) or (b):*

33 (1) *A layoff for a lack of funds in the event of an actual and*
34 *existing financial inability to pay the salaries of classified*
35 *employees.*

36 (2) *A layoff for a lack of work resulting from causes not*
37 *foreseeable or preventable by the governing board.*

38 ~~(d)—~~

1 (e) This section shall apply to districts that have adopted the
2 merit system in the same manner and effect as if it were a part of
3 Article 6 (commencing with Section 45240).

4 ~~SEC. 4. Section 72411 of the Education Code is amended to~~
5 ~~read:~~

6 ~~72411. (a) Every educational administrator shall be~~
7 ~~employed, and all other administrators may be employed, by the~~
8 ~~governing board of the district by an appointment or contract of up~~
9 ~~to four years in duration. The governing board of a community~~
10 ~~college district, with the consent of the administrator concerned,~~
11 ~~may at any time terminate, effective on the next succeeding first~~
12 ~~day of July, the term of employment of, and any contract of~~
13 ~~employment with, the administrator of the district, and reemploy~~
14 ~~the administrator, on any terms and conditions as may be mutually~~
15 ~~agreed upon by the board and the administrator, for a new term to~~
16 ~~commence on the effective date of the termination of the existing~~
17 ~~term of employment.~~

18 ~~(b) If the governing board of a district determines that an~~
19 ~~administrator is not to be reemployed by appointment or contract~~
20 ~~in his or her administrative position upon the expiration of his or~~
21 ~~her appointment or contract, the administrator shall be given~~
22 ~~written notice of this determination by the governing board. For~~
23 ~~an administrator employed by appointment or contract, the term~~
24 ~~of which is longer than one year, the notice shall be given at least 60~~
25 ~~days in advance of the expiration of the appointment or contract~~
26 ~~unless the contract or appointment provides otherwise. For every~~
27 ~~other administrator, notice that the administrator may not be~~
28 ~~reemployed by appointment or contract in his or her administrative~~
29 ~~position for the following college year shall be given 60 days prior~~
30 ~~to the effective date of the layoff. Educational administrators and~~
31 ~~all other administrators shall be subject to layoff for lack of funds~~
32 ~~and lack of work, as provided in Section 88017.~~

33 ~~(c) Subdivision (b) does not apply to any administrator who is~~
34 ~~terminated pursuant to Section 87743, 88017, or 88127, or is~~
35 ~~dismissed for cause.~~

36 ~~SEC. 5.—~~

37 ~~SEC. 2. Section 88017 of the Education Code is amended to~~
38 ~~read:~~

39 ~~88017. (a) When, as a result of the expiration of a specially~~
40 ~~funded program, classified positions must be eliminated at the end~~

of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 60 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 60 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

(c) A classified employee's position may not be terminated while a short-term employee is retained to render a service that the classified employee is qualified to render. *Nothing in this subdivision shall be construed to create a 60-day layoff notice requirement for any individual hired as a short-term employee, as defined in Section 88003, for a period not exceeding 60 days.*

(d) *This section may not be construed to preclude a community college district governing board from implementing either of the following without providing the notice required by subdivision (a) or (b):*

(1) *A layoff for a lack of funds in the event of an actual and existing financial inability to pay the salaries of classified employees.*

(2) *A layoff for a lack of work resulting from causes not foreseeable or preventable by the governing board.*

~~(d)~~

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

~~SEC. 6.—~~

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

- 1 reimbursement does not exceed one million dollars (\$1,000,000),
- 2 reimbursement shall be made from the State Mandates Claims
- 3 Fund.

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